

**Wednesday, May 22, 2013**

The Board met at its offices at 450 N Street, Sacramento, at 10:02 a.m., with Mr. Horton, Chairman, Ms. Steel, Vice Chairwoman, Ms. Yee, Mr. Runner and Mr. Chiang present.

## **PROPERTY TAX MATTER**

### **STATE ASSESSED PROPERTIES VALUE SETTING**

Ken Thompson, Chief, State-Assessed Properties Division, Property and Special Taxes Department, made introductory remarks regarding the valuation of state-assessed properties.

### **Electric Generation Facilities**

Action: Upon motion of Mr. Runner, seconded by Mr. Chiang and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, Ms. Steel not participating in accordance with Government Code section 87105 in 1126, *Elk Hills Power, LLC*, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2013, be as follows:

1100	AES Alamitos, LLC	197,400,000
1101	AES Redondo Beach, LLC	143,300,000
1102	AES Huntington Beach, LLC	53,700,000
1103	Dynegy Moss Landing, LLC	491,400,000
1104	Dynegy Morro Bay, LLC	23,700,000
1105	Dynegy Oakland, LLC	2,040,000
1106	Cabrillo Power I LLC	116,800,000
1107	Cabrillo Power II LLC	3,880,000
1108	GenOn Potrero, LLC	20,300,000
1109	GenOn Delta, LLC	87,700,000
1110	El Segundo Power LLC	24,300,000
1111	Long Beach Generation LLC	60,000,000
1112	La Paloma Generating Company, LLC	333,300,000
1113	GenOn Energy West, LP - Coolwater	34,500,000
1114	GenOn Energy West, LP - Mandalay	42,400,000
1115	GenOn Energy West, LP - Ormond Beach	112,900,000
1116	GenOn Energy West, LP - Etiwanda	30,300,000
1117	GenOn Energy West, LP - Ellwood	5,000,000
1118	Dynegy South Bay, LLC	100,000
1122	GWF Energy, LLC - Hanford	41,100,000
1123	GWF Energy, LLC - Henrietta	35,800,000
1124	GWF Energy, LLC - Tracy	266,400,000
1126	Elk Hills Power, LLC	275,500,000
1127	High Desert Power Trust 2000-A	231,100,000
1128	Delta Energy Center, LLC	326,900,000
1129	Gilroy Energy Center, LLC	60,900,000
1131	Pastoria Energy Facility, LLC	363,600,000

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1132	Calpine Construction Finance Company, LP	141,700,000
1133	Metcalf Energy Center, LLC	239,000,000
1134	Otay Mesa Generating Company, LLC	345,600,000
1136	Blythe Energy, LLC	230,200,000
1137	Sunrise Power Company, LLC	184,200,000
1141	Indigo Generation, LLC	46,900,000
1142	Larkspur Energy LLC	36,400,000
1143	Los Esteros Critical Energy Facility, LLC	243,100,000
1145	Harbor Cogeneration Company, LLC	4,420,000
1146	CES Placerita, Inc.	442,000
1148	Inland Empire Energy Center, LLC	440,200,000
1149	Caithness Blythe II, LLC	608,000
1150	Tesla Power Plant	3,630,000
1151	Russell City Energy Company, LLC	668,100,000
1152	Panoche Energy Center, LLC	287,200,000
1153	Starwood Power-Midway, LLC	74,600,000
1154	Bicent (California) Malburg, LLC	76,900,000
1155	Orange Grove Energy, L.P.	72,000,000
1156	Avenal Power Center, LLC	1,480,000
1157	GenOn Marsh Landing, LLC	544,800,000
1158	El Segundo Energy Center LLC	216,100,000
1159	Mariposa Energy, LLC	184,500,000
1160	CPV Sentinel, LLC	682,500,000
1161	Oakley Generating Station	1,740,000
1162	Walnut Creek Energy, LLC	388,600,000

### Energy Companies

Action: Upon motion of Mr. Runner, seconded by Mr. Chiang and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2013, be as follows:

101	Golden State Water Company	611,100,000
103	Anza Electric Cooperative, Inc.	14,900,000
104	Central Valley Gas Storage LLC	107,600,000
106	PacifiCorp	194,800,000
119	Trans Bay Cable LLC	458,500,000
121	Gill Ranch Storage, LLC	141,800,000
125	Terra-Gen Dixie Valley, LLC	3,600,000
135	Pacific Gas and Electric Company	23,919,000,000
141	San Diego Gas & Electric Company	7,347,800,000
146	Sierra Pacific Power Company	86,000,000
148	Southern California Edison Company	20,179,500,000
149	Southern California Gas Company	3,463,200,000
152	Southwest Gas Corporation	221,700,000

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153	Transwestern Pipeline Company	536,000
156	Atlantic Path 15, LLC	122,100,000
160	Valley Electric Association, Inc.	156,000
163	California Pacific Electric Company, LLC	147,100,000
173	Surprise Valley Electrification Corp.	14,300,000
176	Plumas-Sierra Rural Electric Cooperative	69,100,000
180	North Baja Pipeline, LLC	77,400,000
187	Mojave Pipeline Company	42,200,000
188	Kern River Gas Transmission Company	257,900,000
189	Standard Pacific Gas Line, Inc.	25,200,000
190	Tuscarora Gas Transmission Company	63,600,000
191	Arizona Public Service Company	2,260,000
192	Alpine Natural Gas Operating Company No. One LLC	1,610,000
193	Southwest Transmission Cooperative, Inc.	722,000
194	West Coast Gas Company, Inc.	751,000
195	Wild Goose Storage, LLC	245,700,000
196	Questar Southern Trails Pipeline Company	16,200,000
197	El Paso Natural Gas Company	37,900,000
198	Lodi Gas Storage, LLC	188,000,000

### Pipeline Companies

Action: Upon motion of Mr. Runner, seconded by Mr. Chiang and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, Ms. Steel not participating in accordance with Government Code section 87105 in 429, *Chevron U.S.A., Inc.*; 465, *Plains Pipeline, LP*; 467, *Phillips 66 Company*; 469, *San Ardo Pipeline Company*; 476, *Chevron USA, Inc.*; 479, *Chevron Pipeline Company*; 480, *Phillips 66 Pipeline LLC*; 486, *Pacific Pipeline System, LLC*; 488, *Pacific Terminals LLC*; 489, *Vintage Production California LLC*; the Board ordered that the market value (including penalty if applicable) to be used in the assessment of unitary property of the following listed companies as of January 1, 2013, be as follows:

402	CALNEV Pipe Line LLC	61,400,000
406	CPN Pipeline Company dba Calpine Pittsburg, Inc.	11,800,000
407	Valero Refining Company - California	703,000
409	West Coast Pipe Lines	195,100,000
410	Homestake Mining Company of California	48,300
412	Kings County Canal Company	762,000
428	CPN Pipeline Company	23,200,000
429	Chevron U.S.A., Inc.	47,800,000
435	Natomas Central Mutual Water Company	144,100
461	SFPP, L.P.	431,900,000
462	ARCO Midcon LLC	1,150,000
464	Ventura Pipeline System	3,240,000
465	Plains Pipeline, LP	23,600,000
467	Phillips 66 Company	409,000
468	Shell California Pipeline Company LLC	5,350,000

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469	San Ardo Pipeline Company	16,500,000
475	Searles Valley Minerals Operations Inc.	4,310,000
476	Chevron USA, Inc.	7,070,000
478	California Gas Gathering, Inc.	33,400
479	Chevron Pipeline Company	45,400,000
480	Phillips 66 Pipeline LLC	39,900,000
484	Calpine Pipeline Corporation	5,140,000
486	Pacific Pipeline System, LLC	39,700,000
488	Pacific Terminals LLC	5,560,000
489	Vintage Production California LLC	5,660,000
490	Crimson California Pipeline, L.P.	34,400,000
491	SMF Pipeline	5,010,000
492	San Pablo Bay Pipeline Company LLC	113,300,000
493	Cardinal Pipeline, LP	6,130,000

**Railroad Companies**

Action: Upon motion of Mr. Runner, seconded by Mr. Chiang and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the market value (including penalty if applicable) to be used in the assessment of unitary property of the following listed companies as of January 1, 2013, be as follows:

802	Central Oregon & Pacific Railroad	2,130,000
804	BNSF Railway Company	1,341,200,000
808	West Isle Line, Inc.	234,000
810	California Northern Railroad	34,700,000
812	Ventura County Railroad	3,070,000
813	Pacific Harbor Lines	19,300,000
815	Mendocino Railway	1,480,000
817	Tulare Valley Railroad	482,500
818	Central California Traction Company	7,820,000
822	Pacific Sun Railroad, L.L.C.	2,060,000
826	Sacramento Valley Railroad, LLC	3,170,000
827	Northwestern Pacific Railroad Company	1,420,000
831	Santa Cruz and Monterey Bay Railway Company	390,000
834	LRY, LLC	667,000
839	Oakland Terminal Railway Company	97,000
843	Union Pacific Railroad Company	1,660,800,000
850	Modesto & Empire Traction Company	32,800,000
857	Richmond Pacific Railroad Corporation	977,000
865	San Diego & Imperial Valley Railroad Co. Inc.	7,640,000
869	Coast Belle Railroad Company	834,900
878	Stockton Terminal and Eastern Railroad	3,890,000
882	Trona Railway Co.	16,200,000
883	McCloud Railway Company	2,354,000
889	Yreka Western Railroad Co.	438,750

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894	Napa Valley Wine Train, Inc.	21,300,000
896	Santa Cruz Big Trees & Pacific Railway Co.	2,960,000
897	San Joaquin Valley Railroad Company	18,300,000
898	Sierra Northern Railway	4,680,000
899	Arizona & California Railroad	1,380,000

**Interexchange Telephone Companies**

Action: Upon motion of Mr. Runner, seconded by Mr. Chiang and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the market value (including penalty if applicable) to be used in the assessment of unitary property of the following listed companies as of January 1, 2013, be as follows:

2014	Sprint Communications Company, L.P.	197,900,000
2043	Pac-West Telecomm, Inc.	7,733,000
2099	Smart City Networks LP	1,720,000
2274	MCI Communications Services, Inc.	383,900,000
2310	AT&T Communications	677,800,000
2368	Globe Wireless, LLC	701,000
2372	MCI Metro Access Transmission Services, LLC	136,200,000
2376	Working Assets Funding Service, Inc.	416,000
2383	Matrix Telecom, Inc.	89,600
2416	NOS Communications, Inc.	637,000
2430	Electric Lightwave, LLC	33,600,000
2437	Dialink Corporation	18,300
2463	Qwest Communications Company LLC	173,900,000
2470	Cincinnati Bell Any Distance, Inc.	4,100
7503	Verizon Select Services, Inc.	2,270,000
7512	Frontier Communications of America, Inc.	3,530,000
7516	Cybernet Communications Inc.	352,000
7522	tw telecom of california l.p.	166,000,000
7538	Tremcom International, Inc.	38,060
7544	Telswitch, Inc.	20,200
7560	XO Communications Services, Inc.	99,100,000
7571	Network Enhanced Technologies, Inc.	158,400
7580	Securus Technologies, Inc.	635,000
7581	ABS-CBN Telecom North America, Inc.	130,000
7588	PNG Telecommunications, Inc.	116,000
7621	SES Americom California, Inc.	3,690,000
7623	Verizon Enterprise Solutions LLC	68,600
7625	TCast Communications, Inc.	140,000
7631	Worldnet Communications Services Inc.	4,800
7632	Business Discount Plan, Inc.	10,000
7636	Network Telephone Services, Inc.	1,960,000
7638	Integrated Telemanagement Services, Inc.	68,400
7640	Cox California Telecom, LLC	75,400,000

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7645	Communications Brokers & Consultants, Inc.	1,200
7660	U.S. South Communications, Inc.	2,915,000
7686	Primus Telecommunications, Inc.	161,000
7690	CCT Telecommunications, Inc.	25,000
7699	Legacy Long Distance International, Inc.	147,400
7705	Sierra Telephone Long Distance	2,100
7706	MegaPath Corporation	33,400,000
7732	NTT America, Inc.	18,600,000
7735	Pacific Centrex Services, Inc./TGEC,LLC	87,625
7756	Centergistic Solutions, Inc.	6,930
7757	U.S. TelePacific Corp.	145,400,000
7758	BT Americas Inc.	7,960,000
7761	Level 3 Communications, LLC	344,500,000
7766	KDDI America, Inc.	12,900,000
7769	Airnex Communications, Inc.	46,200
7778	Zayo Bandwidth, LLC	49,200,000
7781	KT America, Inc.	388,000
7791	O1 Communications, Inc.	1,683,000
7792	Point To Point, Inc.	918,000
7799	Wilshire Connection, LLC	1,914,000
7800	Earthlink Business, LLC	186,000
7811	Public Communications Services, Inc.	522,000
7813	Advanced Telecom, Inc.	532,000
7814	PAETEC Communications, Inc.	10,700,000
7824	Audeamus	9,840,000
7832	Astound Broadband LLC	61,600,000
7834	Pannon Telecom, Inc.	11,200
7837	AboveNet Communications, Inc.	60,900,000
7845	San Carlos Telecom, Inc.	67,870
7846	The Telephone Connection Local Services, LLC	7,800
7852	Telstra Incorporated	7,750,000
7866	Telmex USA, LLC	6,950,000
7871	Verizon Online LLC	122,300,000
7872	Infotech Telecommunications & Network, Inc.	10,670
7876	Total Call International, Inc.	147,000
7880	Quick-Tel, Inc.	4,000
7894	Ponderosa Cablevision	1,750,000
7899	RGT Utilities of California, Inc.	1,500
7902	Zone Telecom, Inc.	507,000
7907	Telscape Communications, Inc.	2,790,000
7910	CBC Broadband Holdings, LLC	8,340,000
7912	Americom Government Services, Inc.	570,000
7913	VCOM Solutions, Inc.	181,000
7914	McLeodUSA Telecommunications Services, Inc.	880,000
7916	Peak Communications, Inc.	13,000

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7934	Telecom House Inc.	100,320
7938	McBlue Telecom, Inc.	17,050
7940	Consumer Telcom, Inc.	9,800
7945	ZTG, Inc.	13,310
7948	Astrium Services Government, Inc.	4,410,000
7949	Call America, Inc.	90,000
7950	ATMC, Inc.	6,710
7952	Advanced Tel, Inc.	4,400
7953	Openpop.com, Inc.	374,000
7955	Enhanced Communications Network, Inc.	107,000
7956	Telespan Communications, LLC	36,000
7959	Airespring, Inc.	1,320,000
7960	CallTower, Inc.	1,230,000
7961	SureWest Televideo	132,400,000
7964	Aries Network, Inc.	1,400
7969	Intelsat Global Service LLC	12,700,000
7972	Reliance Globalcom Services, Inc.	8,540,000
7973	Alliance Payphone, Inc.	43,900
7978	Legent Communications Corporation	39,100
7980	Teledata Solutions, Inc.	235,400
7981	Leading Edge Communications, Inc.	705,000
7982	Crown Castle of NG West, Inc.	123,000,000
7985	inContact, Inc.	1,771,000
7988	Global Tel*Link Corporation	4,970,000
7990	CMTel (USA) LLC	1,110,000
7992	NobelTel, LLC	19,100
7993	Clear World Communications Corporation	59,840
7994	Utility Telephone, Inc.	2,340,000
7995	IP Networks, Inc.	21,700,000
7996	RuralWest - Western Rural Broadband, Inc.	250,000
7997	Edison Carrier Solutions	82,800,000
7998	Norcast Communications Corporation	427,000
7999	Purple Language Services	6,550,000
8002	Neutral Tandem - California, LLC	6,990,000
8004	Greenfield Communications, Inc.	897,600
8005	Cable and Wireless Americas Operations, Inc.	950,000
8006	Lucky Communications, Inc.	17,900
8012	RB Communications, Inc.	33,400
8015	China Telecom (Americas) Corporation	4,270,000
8017	Locus Telecommunications, Inc.	180,400
8022	Allstate Communications, Inc.	142,000
8023	One Phone, Inc.	204,600
8024	TC Telephone, LLC	7,260
8026	Nationwide Telecom, Inc.	47,740
8027	Blue Casa Telephone LLC	28,800

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8029	IPC Network Services, Inc.	178,000
8031	Backbone Communications, Inc.	227,000
8032	BCE Nexxia Corporation	119,000
8033	Telecom Consultants Inc.	2,250
8037	CA-CLEC LLC	8,390,000
8038	Telespan Carrier Access, LLC	74,300
8040	Mission Telecom, Inc.	7,400
8041	DMR Communications, Inc.	81,500
8042	Paxio, Inc.	976,000
8044	Intermetro Communications, Inc.	301,400
8046	HyperCube, LLC	1,850,000
8047	Syniverse Technologies, Inc.	385,000
8048	Bright House Networks Information Services (California), LLC	115,000
8049	Cbeyond Communications, LLC	20,500,000
8051	Inteltrace, Inc.	428,000
8057	Vertex Telecom, Inc.	592,900
8061	Charter Fiberlink CA-CCO, LLC	17,700,000
8063	Time Warner Cable Information Services (California), LLC	8,120,000
8065	Connectto Communications, Inc.	295,900
8066	Calmtel USA, Inc.	26,400
8067	Sunesys, LLC	122,500,000
8068	North County Communications Corp	153,750
8071	Verizon Long Distance LLC	78,000
8072	Cypress Communications, LLC	154,000
8074	Silv Communication, Inc.	53,790
8075	Trans National Communications International, Inc.	220,000
8076	OPEX Communications, Inc.	120,000
8077	NewPath Networks, LLC	28,600,000
8078	U.S. Telecom Long Distance, Inc.	32,600
8079	Cal-Ore Communications, Inc.	611,600
8080	Ymax Communications Corporation	171,600
8081	Sonic Telecom, LLC	7,610,000
8082	WTI Communications, Inc.	79,200
8083	Network Expert Group, Inc.	69,960
8084	T-Netix Telecommunications Services, Inc	34,600
8085	Cosmobridge America, Inc.	9,000
8086	ANPI, LLC	134,000
8087	Verosity Technology Partners, LLC	108,000
8089	Conterra Ultra Broadband LLC	1,460,000
8090	Telecommunication Systems, Inc.	2,480,000
8091	Roadway Communications, Inc.	93,000
8092	Global Telecom LLC	13,860
8093	Extenet Systems (California) LLC	34,900,000
8094	Trillion Partners, Inc.	1,079,100
8097	Reunion Communications, Inc.	1,600



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8099	Race Telecomm	520,000
8100	Dial Long Distance, Inc.	5,830
8101	FastBlue Communications, Inc.	9,680
8102	Ekit.Com, Inc.	70,180
8103	LiveTV Airfone, Inc.	54,400
8104	Transpac Telecom, Inc.	5,300
8105	Astrium Services Business Communications, Inc.	222,000
8106	Raw Bandwidth Telecom, Inc.	297,000
8107	Convergence Systems	58,740
8108	Radical System Solutions, Inc.	34,320
8109	Peerless Network of California LLC	1,700,000
8112	Mosaic Networx, LLC	7,040
8113	Calcatchers, Inc.	509,000
8115	&TV Communications, Inc.	2,002,000
8116	PC Landing Corp.	13,000,000
8117	Syniverse ICX Corporation	6,710,000
8118	IntelePeer, Inc.	2,250,000
8119	Express Telecommunications Network, Inc.	4,070
8120	TELUS Communications Inc.	1,300,000
8121	Certain Communications Corporation	19,200
8122	Bandwidth.com CLEC, LLC	383,900
8123	Blue Rooster Telecom, Inc.	66,100
8124	Impact Telecom, Inc.	133,000
8125	IXC Holdings, Inc.	4,350,000
8126	Broadview Networks, Inc.	8,700
8127	Zayo Enterprise Networks, LLC	17,200
8128	Talton Communications, Inc.	44,900
8129	Wide Voice, LLC	209,000
8130	United Telecom, Inc.	39,160
8131	Pacific Lightwave	83,600
8132	Calpop.Com, Inc.	1,936,000
8133	Bestel USA, Inc.	107,140
8134	Infotelecom, LLC	27,800
8135	Broadvox-CLEC, LLC	247,000
8136	Plumas Sierra Telecommunications	9,910,000
8137	SnowCrest Telephone, Inc.	208,000
8138	Act Tele, Inc.	5,830
8139	California Broadband Cooperative, Inc.	30,300,000
8140	California Alliance Telecard, Inc.	48,950
8141	CENIC Broadband Initiatives LLC	560,000
8142	DSI-ITI LLC	18,200
8143	Global Internetworking, Inc.	912,000
8144	GC Pivotal, LLC	20,500
8145	Internet Business Services, Inc.	21,670
8146	Splice Communications, Inc.	35,600

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8147	Deltacom, Inc.	586,000
8148	Digital West Networks, Inc,	1,920,000
8149	Ztelephony	16,500
8150	opticAccess, LLC	506,000
8151	CVIN LLC	17,500,000
8153	Advanced Technology Distributors, Inc.	120,000
8154	Network Innovations, Inc	85,500

**Wireless Telephone Companies**

Action: Upon motion of Mr. Runner, seconded by Mr. Chiang and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the market value (including penalty if applicable) to be used in the assessment of unitary property of the following listed companies as of January 1, 2013, be as follows:

2532	Los Angeles SMSA Ltd., Partnership	802,800,000
2552	Fresno MSA Limited Partnership	90,400,000
2559	Cellco Partnership	1,074,400,000
2602	Digital Communications Network, Inc.	18,600
2605	Nova Cellular West, Inc.	10,230
2606	AT&T Mobility LLC	2,171,800,000
2658	Intouch America, Inc.	81,625
2668	California RSA No. 3 Limited Partnership	12,400,000
2669	California RSA #4 Partnership	16,600,000
2671	California Rural Service Area #1, Inc.	30,100,000
2681	Everything Wireless, LLC	28,900
2683	Pay-Less Cellular, Inc.	68,310
2720	Sprint Telephony PCS, L.P.	902,200,000
2733	MetroPCS Communications	562,600,000
2748	T-Mobile West Corporation	1,077,600,000
2760	Fisher Wireless Services, Inc.	1,720,000
2762	Cricket Communications, Inc.	86,400,000
2772	Globalstar USA, LLC	2,030,000
2773	Accessible Wireless, LLC	493,900
2775	Nextlink Wireless, LLC	3,500,000
2782	Velocita Wireless, LLC	18,590
2783	Flat West Wireless, LLC	2,266,000
2784	Greatcall, Inc.	2,390,000
2785	Public Wireless, Inc.	195,000
2787	Mother Lode Internet, LLC	48,000
2788	NTT Docomo USA, Inc.	298,100
2789	Ciao Telecom, Inc.	28,500
2790	UVNV, Inc.	118,800
2791	Tracfone Wireless, Inc.	77,200
2792	One Communications Corporation	57,100
2793	Bandwidth.com, Inc.	67,980

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3002	American Messaging Services, LLC	595,000
3005	Mobilephone of Humboldt, Inc.	42,240
3039	Fresno Mobile Radio, Inc.	343,000
3362	Madera Radio Dispatch, Inc.	432,000
3430	USA Mobility Wireless, Inc.	1,800,000
3434	James R. McKeown	23,000
3436	ST Messaging, LLC	48,200

### **Local Exchange Telephone Companies**

Action: Upon motion of Mr. Runner, seconded by Mr. Chiang and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the market value (including penalty if applicable) to be used in the assessment of unitary property of the following listed companies as of January 1, 2013, be as follows:

201	Verizon California, Inc.	2,681,300,000
202	CenturyTel of Eastern Oregon, Inc.	69,200
203	Frontier Communications of the Southwest, Inc.	8,100,000
205	Ponderosa Telephone Co., The	35,800,000
209	Pinnacles Telephone Co.	974,000
210	Calaveras Telephone Company	13,970,000
228	Ducor Telephone Company	5,330,000
235	Foresthill Telephone Co.	17,500,000
239	Hornitos Telephone Company	903,000
240	Happy Valley Telephone Company	1,040,000
246	Kerman Telephone Co.	24,300,000
279	Pacific Bell Telephone Company	6,882,100,000
284	Citizens Telecommunications Company of California, Inc.	79,000,000
286	Sierra Telephone Company, Inc.	46,300,000
294	SureWest Telephone	121,800,000
301	Siskiyow Telephone Company, The	50,300,000
320	Frontier Communications West Coast, Inc.	6,330,000
327	Volcano Telephone Company	22,400,000
328	Cal-Ore Telephone Co.	6,910,000
330	Winterhaven Telephone Company	921,000

The Board recessed at 10:08 a.m. and reconvened at 10:15 a.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang present.

### **BOARD MEMBER ANNUAL PHOTOGRAPH**

The annual Board photograph was taken of Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang.

The Board recessed at 10:20 a.m. and reconvened at 10:38 a.m. with Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

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**CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING**

Epicenter Communications, 568608

2007 \$1,417.20 Claim for Refund

2008 \$1,899.83 Claim for Refund

For Appellant:

Sherry Mackey, Witness

Jacqueline Amrikhas, Representative

For Franchise Tax Board:

David Muradyan, Tax Counsel

Craig Scott, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has established reasonable cause so that the late payment penalties for 2007 and 2008 should be abated.

Whether appellant has shown the estimated tax penalties for 2007 and 2008 should be abated.

Whether appellant has shown error in respondent's imposition of the collection cost recovery fee and lien fee for 2008.

Whether appellant has shown respondent erred in not abating interest.

Appellant's Exhibit: Miscellaneous Documents ([Exhibit 5.1](#))

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Exhibits to these minutes are incorporated by reference.

**SALES AND USE TAX APPEALS HEARING**

Activator Methods International, Ltd., 510994 (OH)

10-1-05 to 9-30-08, \$22,565.36 Tax

For Petitioner:

Thomas L. Sheehy, Witness

G. Michelle Ferreira, Attorney

For Sales and Use Tax Department:

Scott Claremon, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether petitioner was required to collect and report use tax to the Board.

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

The Board recessed at 12:15 p.m. and reconvened at 1:36 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

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### Local Tax Reallocation Hearings

City of Fillmore, 466375

4-1-07 to 12-31-12, \$1,006,188.00 Tax

For Petitioner:

Alberto Torrico, Attorney

For Taxpayer:

Alberto Torrico, Attorney

For Notified Jurisdiction City of Burbank:

Robin Sturdivant, Representative

For Notified Jurisdiction City of Fresno:

Janis Varney, Representative

Eric Myers, Representative

For Notified Jurisdiction City of Los Angeles:

Evelyn Fernandez-Melone, Representative

For Sales and Use Tax Department:

Cary C. Huxsoll, Tax Counsel

Not subject to contribution disclosure statute pursuant to Government Code section 15626.

Issue: Whether Taxpayer incorrectly reported the local tax as sales tax to the office located in Fillmore.

Action: Upon motion of Ms. Mandel, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

City of Milpitas, 571838

7-1-08 to 12-31-12, \$317,864.00 Tax

For Petitioner:

Janis Varney, Representative

Eric Myers, Representative

For Notified Jurisdiction City of San Jose:

Wendy Sollazzi, Representative

Dat Vu, Representative

Ryan Swanson, Representative

For Sales and Use Tax Department:

Cary C. Huxsoll, Tax Counsel

Not subject to contribution disclosure statute pursuant to Government Code section 15626.

Issue: Whether the local tax on Retailer's sales negotiated outside California and drop shipped by Manufacturer from Manufacturer's inventory located at its facility (85 percent) should be reallocated to petitioner as local sales tax.

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

### PUBLIC HEARINGS

#### Business Taxpayers' Bill of Rights Hearings

Todd Gilman, Chief, Taxpayers' Rights and Equal Employment Opportunity Division, made introductory remarks regarding the Business Taxpayers' Bill of Rights hearings. Individuals have the opportunity to present ideas, concerns, and recommendations regarding legislation, the quality of agency services, and other issues related to the Board's administration of its tax programs, including sales and use taxes, environmental fees, fuel taxes, and excise taxes, and any problems identified in the Taxpayers' Rights Advocate's Annual Report ([Exhibit 5.2](#)).

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Mr. Gilman entered into the record written comments from Gina Rodriguez, Vice President of State Tax Policy, California Taxpayers Association ([Exhibit 5.3](#)).

Speakers: Abe Golomb, Sales Tax Reduction Specialists  
 Jesse W. McClellan, Principal, McClellan Davis, LLC, Sales & Use Tax Consultants  
 John Francis Kelly, Owner, *Kelly's Tux Shop*, and California Resident

In response to Abe Golomb's comments, Mr. Runner requested that the Taxpayer Rights Advocate monitor the SCOP program.

In response to John Francis Kelly's comments, the Board directed staff to inform the California Congressional Delegate of the Board's resolution relative to the FTA's Tobacco Section resolution to expand the *Prevent All Cigarette Trafficking Act* (PACT Act) to include cigars and pipe tobacco.

### Property Taxpayers' Bill of Rights Hearings

Todd Gilman, Chief, Taxpayers' Rights and Equal Employment Opportunity Division, made introductory remarks regarding the Property Taxpayers' Bill of Rights hearings. Individuals have the opportunity to present their ideas, concerns, and recommendations regarding legislation, the quality of agency services, and other issues related to the Board's administration of its tax programs, including state and county property tax programs, and any problems identified in the Taxpayers' Rights Advocate's Annual Report ([see Exhibit 5.2](#)).

Mr. Gilman entered into the record written comments from Shirley Johnson, Property Owner, Roseville, California ([Exhibit 5.4](#)).

Speakers were invited to address the Board, but there were none.

### LEGAL APPEALS MATTERS, CONSENT

Speaker: Abe Golomb, Sales Tax Reduction Specialists, representing *Akop Jack Chichyan, Vicken Djeredjian, and Mnatsakan Mike Grigoryan, 388129 (STF)*; and, *Walid Khaled Awwad, 512991 (GH)*

The Board deferred consideration of the following matters: *Rancho Marine Recycling, Inc., 559090 (KH)*; *Akop Jack Chichyan, Vicken Djeredjian, and Mnatsakan Mike Grigoryan, 388129 (STF)*; and, *C.D.H.S. Group, Inc., 506013 (EA)*.

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board made the following orders:

Yousif H. Halloum, 602160 (KH)

10-1-07 to 9-30-10, \$335,561.97 Tax, \$33,556.16 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

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Rancho Marine Recycling, Inc., 559090 (KH)  
10-1-06 to 9-30-09, \$48,911.87 Tax, \$0.00 Penalty  
Action: The Board took no action.

Charan Singh Dhillon and Sukhwinder Singh, 536284 (KH)  
1-1-06 to 12-31-08, \$76,743.97 Tax, \$7,674.46 Negligence Penalty  
Action: Redetermine as recommended by the Appeals Division.

Capital Water Sports, Inc., 533929 (KH)  
1-1-06 to 12-31-08, \$67,384.91 Tax  
Action: Redetermine as recommended by the Appeals Division.

Ceres Smog, Inc., 523738 (KH)  
10-1-05 to 9-30-08, \$13,727.93 Tax, \$1,372.81 Negligence Penalty  
Action: Redetermine as recommended by the Appeals Division.

Amy Hang, 681994 (STF)  
September 17, 2012 Seizure Date, \$208.00 Approximate Value  
Action: Determined that staff properly seized the tobacco products.

MSB Enterprises, LLC, 682016 (STF)  
October 9, 2012 Seizure Date, \$95.00 Approximate Value  
Action: Determined that staff properly seized the tobacco products.

Akop Jack Chichyan, Vicken Djerredjian, and Mnatsakan Mike Grigoryan, 388129 (STF)  
10-1-00 to 2-28-02, \$3,001,500.00 Tax, \$750,375.00 Fraud Penalty, \$300,150.00 Failure to File Penalty  
Action: The Board took no action.

C.D.H.S. Group, Inc., 506013 (EA)  
7-1-05 to 6-30-08, \$86,787.54 Tax, \$9,637.57 Negligence Penalty  
Action: The Board took no action.

Walid Khaled Awwad, 512991 (GH)  
1-1-01 to 3-31-08, \$0.00 Tax, \$44,568.65 Fraud Penalty, \$20,162.96 Tax Collected but Not Remitted Penalty, \$7,232.02 Amnesty Double Fraud Penalty  
Action: Deny the petition for rehearing as recommended by the Appeals Division.

Yin Mei Liang, 492980 (EA)  
4-1-05 to 12-31-07, \$3,092.06 Tax, \$189.08 Negligence Penalty, \$120.13 Failure to File Penalty  
Action: Deny the petition for rehearing as recommended by the Appeals Division.

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**CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT**

The Board deferred consideration of the following matter: *James S. Gandrup, 605520; Carol Grant, 600451; Eldo Klingenberg, 600453; Dan Pickell, 600488; Marianne Pretscher-Johnson, 605527; and, Darrell L. Rich, 608471.*

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board made the following orders:

**James S. Gandrup, 605520**

2006, \$12,402.00 Tax, \$3,100.50 Late Filing Penalty, \$3,100.50 Notice and Demand Penalty

2007, \$11,208.00 Tax, \$2,802.00 Late Filing Penalty, \$2,802.00 Notice and Demand Penalty

**Carol Grant, 600451**

2009, \$1,691.00 Tax, \$422.75 Late Filing Penalty, \$422.75 Notice and Demand Penalty, \$100.00 Filing Enforcement Fee

**Eldo Klingenberg, 600453**

2009, \$2,675.00 Tax, \$688.75 Late Filing Penalty, \$688.75 Notice and Demand Penalty, \$100.00 Filing Enforcement Fee

**Dan Pickell, 600488**

2009, \$2,152.00 Tax, \$513.50 Late Filing Fee, \$513.50 Notice and Demand Penalty, \$100.00 Filing Enforcement Fee

**Marianne Pretscher-Johnson, 605527**

2006, \$5,386.00 Tax, \$1,323.75 Late Filing Penalty, \$1,323.75 Notice and Demand Penalty

**Darrell L. Rich, 608471**

2007, \$7,888.00 Tax, \$1,972.00 Late Filing Penalty, \$1,972.00 Notice and Demand Penalty, \$100.00 Filing Enforcement Fee

2008, \$7,211.00 Tax, \$1,802.75 Late Filing Penalty, \$1,802.75 Notice and Demand Penalty, \$100.00 Filing Enforcement Fee

Action: The Board took no action.

**Larry M. Katz, 597600**

2007, \$6,297.00 Claim for Refund

2008, \$3,396.00 Claim for Refund

2009, \$317.02 Claim for Refund

Action: Sustain the action of the Franchise Tax Board as modified by its concessions.

**Theaodus N. Sterling III, 599547**

2007, \$2,172.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

**Jian Chen, 562348**

2007, \$2,156.00 Assessment

Action: Sustain the action of the Franchise Tax Board as modified by its concession.



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**Herman Cooper and Wantzu Cooper, 570236**

2007, \$6,510.00 Tax, \$1,627.50 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board.

**Nicholas Czuczko, 571225**

2006, \$78,244.00 Tax, \$15,648.80 Accuracy-Related Penalty

Action: Sustain the action of the Franchise Tax Board.

**Joseph Francis, 523692**

2001, \$2,094,835.00 Tax, \$1,674,452.00 Noneconomic Substance Transaction Penalty

Action: Sustain the action of the Franchise Tax Board.

**Brian Greene, 601519**

2008, \$396.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

**Baydzar Keosheyan, 574781**

2007, \$955.25 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board as modified by its concession on appeal.

**Sarah Lucas-Glassman, 554181**

2007, \$217.00 Collection Cost Recovery

Action: Sustain the action of the Franchise Tax Board as modified by its concession.

**Melani Maxfield, 578134**

2007, \$103.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

**Lamond Murray and Carmen Murray, 469418**

2000, \$151,968.00 Tax, \$37,922.00 Failure to Furnish Information Penalty, \$11,971.97 Post-Amnesty Penalty

2001, \$177,318.00 Tax, \$44,329.50 Failure to Furnish Information Penalty, \$8,274.30 Post-Amnesty Penalty

Action: Sustain the action of the Franchise Tax Board.

**Travis Rock, 593532**

2007, \$3,507.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

**Richard A. Rungaitis, 578988**

2003, \$4,806.85 Claim for Refund

Action: Sustain the action of the Franchise Tax Board as modified by its concession.

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Leonardo R. Salim, 588482

2007, \$5,489.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Michael D. Schwab and Luann F. Schwab, 572563

2008, \$5,863.85 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Edwin Sibbaluca, 563450

2006, \$3,361.54 Assessment

2007, \$3,002.99 Assessment

2008, \$2,747.45 Assessment

Action: Sustain the action of the Franchise Tax Board.

John Sikora, 597738

2009, \$848.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Brian Stanton, 569821

2007, \$1,048.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Barry L. Weiss and Dorraine Gilbert Weiss, 605043

1993, \$524.00 Claim for Refund

1994, \$7,380.31 Claim for Refund

1996, \$26,453.34 Claim for Refund

1997, \$25,543.44 Claim for Refund

1998, \$11,879.00 Claim for Refund

2000, \$35,344.86 Claim for Refund

2001, \$5,542.91 Claim for Refund

2003, \$1,351.86 Claim for Refund

2004, \$1,303.36 Claim for Refund

2005, \$1,609.50 Claim for Refund

2006, \$619.55 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Ali Amidy and Guiti Nahavandi, 524954

2004, \$111,346.00 Tax, \$19,911.40 Accuracy-Related Penalty

Action: Deny the petition for rehearing.

Anser Hassan, 536983

2003, \$26,680.00 Tax, \$6,670.00 Late Filing Penalty

Action: Deny the petition for rehearing.

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Alexander H. Watts, 587892

2009, \$931.00 Tax, \$232.75 Late Filing Penalty, \$232.75 Demand Penalty, \$100.00 Filing Enforcement Fee, \$750.00 Frivolous Appeal Penalty

Steven Olmos, 572574

2008, \$25,483.00 Tax, \$6,370.75 Late Filing Penalty, \$6,370.75 Demand Penalty, \$113.00 Filing Enforcement Fee, \$5,000.00 Frivolous Appeal Penalty

Gregory Stover, 572570

2008, \$964.00 Tax, \$241.00 Late Filing Penalty, \$243.75 Demand Penalty, \$113.00 Filing Enforcement Fee, \$2,500.00 Frivolous Appeal Penalty

Benjamin F. Killen, 597598

2008, \$1,776.00 Tax, \$444.00 Late Filing Penalty, \$444.00 Demand Penalty, \$100.00 Filing Enforcement Penalty, \$5,000.00 Frivolous Appeal Penalty

Action: Deny the petition for rehearing.

**SALES AND USE TAX MATTERS, REDETERMINATIONS, RELIEF OF PENALTIES AND DENIALS OF CLAIMS FOR REFUND, CONSENT**

With respect to the Sales and Use Tax Matters, Redeterminations, Relief of Penalties and Denials of Claims for Refund, Consent Agenda, upon a single motion of Mr. Runner, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 in *Verizon Wireless (VAW), LLC, 479522 (AS)*; and, *R.R. Donnelley & Sons Company, 550107 (OH)*; the Board made the following orders:

Wells Fargo Bank, National Association, 465976 (BH)

10-1-98 to 12-31-02, \$169,916.11

Action: Approve the redetermination as recommended by staff.

Rubbermaid Incorporated, 562925 (OH)

10-1-06 to 9-30-09, \$399,506.58

Action: Approve the redetermination as recommended by staff.

Valero Refining Company - California, 572716 (OH)

7-1-00 to 6-30-07, \$2,211,364.57

Action: Approve the redetermination as recommended by staff.

Verizon Wireless (VAW), LLC, 479522 (AS)

7-1-02 to 12-31-05, \$8,120,335.48

Action: Approve the redetermination as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Apical Instruments, Inc., 624292 (GH)

10-1-08 to 12-31-09, \$200,719.51

Action: Approve the redetermination as recommended by staff.

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Yingli Green Energy Americas, Inc., 712414 (BH)

7-1-12 to 9-30-12, \$119,186.76

Action: Approve the relief of penalty as recommended by staff.

Groupon Goods, Inc., 715894 (OH)

7-1-12 to 9-30-12, \$140,735.50

Action: Approve the relief of penalty as recommended by staff.

R.R. Donnelley &amp; Sons Company, 550107 (OH)

1-1-05 to 3-31-08, \$167,442.93

Action: Approve the denial of claim for refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

**SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT**

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board made the following orders:

Ahmed Bahman Lari, 482700 (DF)

4-1-02 to 10-05-04, \$104,724.53

Action: Approve the credit and cancellation as recommended by staff.

David Micmillian Garthwaite, 535945 (EH)

10-1-01 to 12-31-06, \$544,020.66

Action: Approve the credit and cancellation as recommended by staff.

Lourdes Maria Garthwaite, 535944 (EH)

10-1-01 to 12-31-06, \$544,020.66

Action: Approve the credit and cancellation as recommended by staff.

L.A. Unified School District, 575528 (AS)

7-1-09 to 12-31-10, \$306,330.00

Action: Approve the refund as recommended by staff.

Turlock Irrigation District, 670040 (KH)

1-1-12 to 3-31-12, \$219,336.00

Action: Approve the refund as recommended by staff.

Aero Systems Engineering, Inc., 599655 (OH)

10-1-08 to 9-30-10, \$175,359.65

Action: Approve the refund as recommended by staff.

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Mercedes-Benz USA, LLC, 713627 (KH)

9-17-12 to 1-16-13, \$303,462.00

Action: Approve the refund as recommended by staff.

Lockheed Martin Corporation, 513371 (OH)

7-1-06 to 12-31-08, \$144,550.93

Action: Approve the refund as recommended by staff.

Colbi Technologies, Inc., 670041 (EA)

7-1-09 to 9-30-12, \$241,904.00

Action: Approve the refund as recommended by staff.

D Empire, LLC, 670044 (AS)

1-1-11 to 6-30-11, \$194,950.89

Action: Approve the refund as recommended by staff.

#### **SPECIAL TAXES MATTERS, RELIEF OF PENALTIES, CONSENT**

With respect to the Special Taxes Matters, Relief of Penalties, Consent Agenda, upon a single motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board made the following orders:

Central Cal Alliance for Health, 629940 (STF)

1-1-11 to 3-31-11, \$153,643.40

Action: Approve the relief of penalty as recommended by staff.

Central Cal Alliance for Health, 629954 (STF)

10-1-12 to 12-31-12, \$340,000.00

Action: Approve the relief of penalty as recommended by staff.

Inland Empire Health Plan, 636878 (STF)

7-1-10 to 9-30-10, \$302,124.10

Action: Approve the relief of penalty as recommended by staff.

Commonwealth Land Title Insurance Company, 717027 (STF)

1-1-07 to 12-31-09, \$130,249.03

Action: Approve the relief of penalty as recommended by staff.

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**SPECIAL TAXES MATTERS, CREDITS, CANCELLATIONS AND REFUNDS,  
CONSENT**

With respect to the Special Taxes Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9 in *Liberty Mutual Insurance Company, 414290; Peerless Insurance Company, 414313; Netherlands Insurance Company, 414318; Liberty Insurance Corporation, 414292; Western United Insurance Company, 350929; Golden Eagle Insurance Corporation, 414320; and, Constellation Brands U.S. Operations, Inc., 711130*; the Board made the following orders:

**Liberty Mutual Insurance Company, 414290 (STF)**

1-1-06 to 12-31-06, \$182,317.13

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**Peerless Insurance Company, 414313 (STF)**

1-1-06 to 12-31-06, \$1,018,867.85

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**Netherlands Insurance Company, 414318 (STF)**

1-1-06 to 12-31-06, \$210,407.30

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**Liberty Insurance Corporation, 414292 (STF)**

1-1-06 to 12-31-06, \$550,643.75

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**Western United Insurance Company, 350929 (STF)**

1-1-01 to 12-31-04, \$859,531.75

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**Golden Eagle Insurance Corporation, 414320 (STF)**

1-1-06 to 12-31-06, \$583,966.82

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**Circle K Stores, Inc., 613280 (STF)**

4-1-12 to 4-30-12, \$269,780.00

Action: Approve the refund as recommended by staff.

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Ratib Norzei, 570472 (STF)

4-1-08 to 12-31-10, \$175,377.23

Action: Approve the refund as recommended by staff.

Constellation Brands U.S. Operations, Inc., 711130 (STF)

11-1-12 to 11-30-12, \$104,973.90

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

### **LEGAL APPEALS MATTERS, ADJUDICATORY**

Océ Financial Services, Inc., 473623 (OH)

1-1-04 to 12-31-06, \$380,177.77 Tax

Considered by the Board: Hearing Notice Sent - No Response

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, their agent or participants.

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Upon motion of Mr. Runner, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the matter not be held in abeyance pending the adoption of a summary decision for publication.

City of Los Angeles – Controller, 489155, 509958 (AA)

10-1-02 to 3-31-06, \$0.00 Tax, \$0.00 Claim for Refund

Considered by the Board: June 23, 2011

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

### **SALES AND USE TAX MATTERS, DENIAL OF CLAIM FOR REFUND, ADJUDICATORY**

Mitsubishi Power Systems Americas, Inc., 594638 (OH)

7-1-08 to 9-30-08, \$330,200.00 Claim for Refund

Considered by the Board: March 12, 2013

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 87105, the Board approved the denial of claim for refund as recommended by staff.

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**TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE****PROPERTY TAX MATTERS****Audits****Terra-Gen Dixie Valley, LLC (125)**

2011-2012, \$770,000.00 Excessive Assessment, \$46,000.00 Penalties, \$69,000.00 In-lieu Interest

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit excessive assessment, plus penalties and in-lieu interest, as recommended by staff.

**PNG Telecommunications, Inc. (7588)**

2010-2012, \$246,400.00 Escaped Assessment, \$16,090.00 Penalties, \$30,876.00 In-lieu Interest

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit escaped assessment, plus penalties and in-lieu interest, as recommended by staff.

**Global Tel\*Link Corporation (7988)**

2009-2012, \$580,000.00 Escaped Assessment, \$58,000.00 Penalties, \$130,200.00 In-lieu Interest

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit escaped assessment, plus penalties and in-lieu interest, as recommended by staff.

**CMTel (USA), LLC (7990)**

2009-2012, \$720,000.00 Escaped Assessment, \$72,000.00 Penalties, \$90,900.00 In-lieu Interest

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit escaped assessment, plus penalties and in-lieu interest, as recommended by staff.

**Allstate Communications, Inc. (8022)**

2009 and 2012, \$93,000.00 Excessive Assessment

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit excessive assessment as recommended by staff.



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**Cbeyond Communications, LLC (8049)**

2009-2011, \$2,100,000.00 Escaped Assessment, \$60,000.00 Penalties, \$81,000.00 In-lieu Interest  
Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit escaped assessment, plus penalties and in-lieu interest, as recommended by staff.

**Ymax Communications Corporation (8080)**

2009-2012, \$400,700.00 Escaped Assessment, \$40,070.00 Penalties, \$64,542.00 In-lieu Interest  
Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit escaped assessment, plus penalties and in-lieu interest, as recommended by staff.

**Conterra Ultra Broadband, LLC (8089)**

2009, \$440,000.00 Excessive Assessment  
Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit excessive assessment as recommended by staff.

**Ztelephony, LLC (8149)**

2009-2012, \$125,600.00 Escaped Assessment, \$12,560.00 Penalties, \$29,127.00 In-lieu Interest  
Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit escaped assessment, plus penalties and in-lieu interest, as recommended by staff.

**Unitary Escaped Assessment**

**Northwestern Pacific Railroad (827)**

2012, \$1,330,000.00 Escaped Assessment  
Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the unitary escaped assessment as recommended by staff.

**OFFER-IN-COMPROMISE RECOMMENDATIONS**

Action: Upon motion of Ms. Steel, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the Offer in Compromise Recommendations of *Raymond K. Ammari; Sam Issa Dabai; Walter Robert Evens; Ui C. Hwang; Ronnie A. Margolis; Diane Heuvelman Michlig; Donna M. Orsi; Lorenzo N. Orsi; Yunkwon Pai; Quick Trip, Inc.; Bryan Anthony Smith; R & R Collective, Inc.;* and, *Gary L. Smith;* as recommended by staff.

Wednesday, May 22, 2013

**CHIEF COUNSEL MATTERS****RULEMAKING****Readoption of Emergency Regulation 2000, *Retailer Reimbursement Retention***

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, was available to answer questions regarding staff's recommendation and request for readoption of emergency Regulation 2000 to maintain the status quo while the Board considers the adoption of a permanent regulation ([Exhibit 5.5](#)).

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board readopted emergency Regulation 2000, *Retailer Reimbursement Retention*, as recommended by staff.

**ADMINISTRATIVE SESSION****ADMINISTRATIVE MATTERS, CONSENT**

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board made the following orders:

Action: Adopt the following resolutions, extending its sincere and grateful appreciation to the retirees for their dedicated service to the State Board of Equalization and to the State of California, their congratulations on each retiree's well-earned retirement, and best wishes to them and their families for continued success, happiness and good health in the years to come ([Exhibit 5.6](#)).

Michael Anglin, Data Processing Manager II, Technology Services Department,  
Headquarters

Gary A. Bendett, Business Taxes Specialist I, San Diego District Office

John Gagliani Jr., Business Taxes Specialist I, San Diego District Office

Gail C. Griffith, Tax Technician III, Norwalk District Office

Action: Approve the Board Meeting Minutes of September 12-13, 2012 and October 23-25, 2012.

Action: Adopt Property Tax Forms as recommended by staff ([Exhibit 5.7](#)).

**ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS****Legislative Committee**

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the Legislative Committee report and the actions therein ([Exhibit 5.8](#)).

Wednesday, May 22, 2013

### **Customer Services and Administrative Efficiency Committee**

Action: Upon motion of Ms. Mandel, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the Customer Services and Administrative Efficiency Committee report and the actions therein ([Exhibit 5.9](#)).

### **OTHER ADMINISTRATIVE MATTERS**

#### **Executive Director's Report**

Cynthia Bridges, Executive Director, provided a report regarding time extensions to Butte, Lake, Mariposa, Modoc, Monterey, Orange, Sierra, Sutter, Trinity, Yolo and Yuba Counties to complete and submit the 2013/14 Local Assessment Roll, pursuant to Revenue and Taxation Code section 155 ([Exhibit 5.10](#)).

Cynthia Bridges, Executive Director, and Jaime Garza, Deputy Director, External Affairs, introduced a new Board of Equalization logo ([Exhibit 5.11](#)).

Mr. Horton directed staff to bring the logo back to the Board for a vote at the June meeting.

Cynthia Bridges, Executive Director, reported that staff is working on the logistics for the Board meeting currently scheduled for September 10-12, 2013 in San Francisco and that she continues to explore the most cost-effective means to ensure maximum taxpayer participation. Ms. Bridges indicated that she will provide a full update at the June meeting.

Eric Steen, CROS Project Director, provided a report regarding the progress on the CROS project to replace BOE's two current tax legacy technology systems.

Cynthia Bridges, Executive Director, introduced Larry Bergkamp, Business Taxes Specialist III, Research and Statistics Section, Legislative and Research Division, who provided a status report on federal legislation regarding the Marketplace Fairness Act of 2013.

The Board recessed at 4:04 p.m. and reconvened at 4:14 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

#### **Property and Special Taxes Deputy Director's Report**

David Gau, Deputy Director, Property and Special Taxes Department, made introductory remarks regarding staff's recommendation for setting the 2013/14 fiscal year tobacco products tax rate ([Exhibit 5.12](#)).

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board set the tobacco products tax rate at 29.82 percent for Fiscal Year 2013/14 as recommended by staff.

Wednesday, May 22, 2013

David Gau, Deputy Director, Property and Special Taxes Department, made introductory remarks regarding staff's recommendation for the 4-R Act Equalization Ratio for 2013/14, to ensure that rail transportation property is assessed at the same percentage of market value as all other commercial/industrial property ([Exhibit 5.13](#)).

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board set the 4-R Act Equalization Ratio at 80.46 percent for 2013/14 as recommended by staff.

David Gau, Deputy Director, Property and Special Taxes Department, provided an update regarding CAL FIRE's 2013 Focused State Responsibility Area Review, including CAL FIRE's proposed changes to their State Responsibility Area maps pursuant to Public Resource Code sections 4125-4128.

Mr. Horton directed staff to provide clarity to taxpayers, particularly those who are going out of the State Responsibility Area (SRA) billing system, about why they were in the SRA billing system, before staff sends out the billings.

#### **Administration Deputy Director's Report**

Liz Houser, Deputy Director, Administration Department, made introductory remarks regarding the following contracts over \$1 million: Department of Motor Vehicles contract for collection of sales, use and/or special taxes pertaining to vehicles and undocumented vessels ([Exhibit 5.14](#)); and, Department of Toxic Substance Control contract for collection of fees pertaining to hazardous waste ([Exhibit 5.15](#)).

Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the contracts over \$1 million with DMV and DTSC as recommended by staff.

Mr. Horton directed staff to show the annual breakdown in the 2-year contracts.

Liz Houser, Deputy Director, Administration Department, provided information regarding the Governor's 2013/14 Budget.

#### **ANNOUNCEMENT OF CLOSED SESSION**

The Board recessed at 4:44 p.m. and reconvened immediately in closed session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

#### **CLOSED SESSION**

The Board met to discuss pending litigation (Gov. Code § 11126(e)), settlements (Rev. & Tax. Code §§ 6901, 7093.5, 30459.1 and 50156.11) and personnel matters (Gov. Code § 11126(a)).

The Board recessed at 4:51 p.m. and reconvened immediately in open session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Wednesday, May 22, 2013

Mr. Horton announced the appointment of Joe Fitz to the position of Chief, Research and Statistics Section, Legislative and Research Division.

**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES  
HEARINGS HELD MAY 22, 2013**

Epicenter Communications, 568608

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board.

Steve Hobart Ball, 629925

2008, \$819.00 Assessment

For Appellant:

Waived Appearance

For Franchise Tax Board:

Richard Tay, Tax Counsel

Diane Ewing, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether appellant has shown that respondent's determination based on a federal audit report is incorrect.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board sustained the modified action of the Franchise Tax Board.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD  
MAY 22, 2013**

Activator Methods International, Ltd., 510994 (OH)

Final Action: Upon motion of Mr. Runner, seconded by Ms. Steel and duly carried, Mr. Horton, Ms. Steel and Mr. Runner voting yes, Ms. Yee and Ms. Mandel voting no, the Board ordered that the petition be granted and the tax be redetermined accordingly.

Martel Toler and Nabil N. Musleh, 510343 (BH)

10-1-00 to 3-31-07, \$64,724.81 Tax, \$6,472.53 Failure to File Penalty, \$2,010.37 Amnesty

Double Failure to File Penalty, \$2,696.34 Amnesty Interest Penalty

For Petitioners:

Waived Appearance

For Sales and Use Tax Department:

Scott Lambert, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether adjustments are warranted to the amount of unreported taxable sales.

Whether relief of the failure-to-file penalty is warranted.

Whether relief of the amnesty penalties is warranted.

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Wednesday, May 22, 2013

**FINAL ACTION ON LOCAL TAX REALLOCATION HEARINGS HELD MAY 22, 2013**

City of Fillmore, 466375

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be denied and that the local tax reported as sales tax to petitioner be reallocated as use tax through the countywide pools of the places of use as recommended by the Appeals Division. The Board's decision was not held in abeyance pending adoption of a summary decision for publication.

City of Milpitas, 571838

Final Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be denied as to the subject sales as recommended by the Appeals Division.

The Board adjourned at 4:55 p.m.

*The foregoing minutes are adopted by the Board on October 29, 2013.*

Note: The following matters were removed from the calendar prior to the meeting: *Special Presentation—Report from Franchise Tax Board on Proposed First-Time Penalty Abatement Program; Michael C. Fletcher and Janis I. Fletcher, 603936; Carolyn A. Harr, 599807; Diane R. Bascom and Michael J. Bascom, 612494; and, R&G Schatz Farms, Inc., 547724, 588579, 592624 (KH).*